

§ 3565.458

(iii) Any cash items retained by the lender, except any amount representing a balance of the guaranteed loan not advanced to the borrower. Any loan amount not advanced will be applied by the lender to reduce the outstanding principal on the loan.

(d) *Lender certification.* The lender must certify that all possibilities of collection have been exhausted and that all of the items specified in paragraph (c) of this section have been identified and reported to the Agency as a condition for payment of claim.

§ 3565.458 Withdrawal of claim.

If the lender provides timely written notice to the Agency of withdrawal of the claim, the guarantee will continue as if the default had not occurred if the borrower cures the default prior to foreclosure or prior to acceptance of a deed-in-lieu of foreclosure.

§§ 3565.459–3565.499 [Reserved]

§ 3565.500 OMB control number.

According to the Paperwork Reduction Act of 1995, no party is required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575–0174.

PART 3570—COMMUNITY PROGRAMS

Subpart A [Reserved]

Subpart B—Community Facilities Grant Program

Sec.

3570.51 General.

3570.52 Purpose.

3570.53 Definitions.

3570.54 Equal opportunity and fair housing.

3570.55–3570.59 [Reserved]

3570.60 Processing preapplications, applications, and completing grant dockets.

3570.61 Eligibility for grant assistance.

3570.62 Use of grant funds.

3570.63 Limitations.

3570.64 Determining the maximum grant assistance.

3570.65 Project selection priorities.

3570.66–3570.69 [Reserved]

3570.70 Other considerations.

3570.71–3570.75 [Reserved]

3570.76 Planning and performing development.

7 CFR Ch. XXXV (1–1–99 Edition)

3570.77–3570.79 [Reserved]

3570.80 Grant closing and delivery of funds.

3570.81–3570.82 [Reserved]

3570.83 Audit requirements.

3570.84 Grant servicing.

3570.85 Programmatic changes.

3570.86 [Reserved]

3570.87 Grant suspension, termination, and cancellation.

3570.88 Management assistance.

3570.89 [Reserved]

3570.90 Exception authority.

3570.91 Regulations.

3570.92 [Reserved]

3570.93 Regional Commission grants.

3570.94–3570.99 [Reserved]

3570.100 OMB control number.

AUTHORITY: 5 U.S.C. 301; 7 U.S.C. 1989.

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Subpart A [Reserved]

Subpart B—Community Facilities Grant Program

§ 3570.51 General.

(a) This subpart outlines Rural Housing Service (RHS) policies and authorizations and sets forth procedures for making essential Community Facilities (CF) grants authorized under section 306(a)(19) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(19)).

(b) Funds allocated for use in accordance with this subpart are also to be considered for use by Native American tribes within a State regardless of whether State development strategies include Indian reservations within the State's boundaries. Native American tribes residing on such reservations must have equal opportunity along with other rural residents to participate in the benefits of these programs.

(c) Any processing or servicing activity conducted pursuant to this subpart involving authorized assistance to Agency employees, members of their families, close relatives, or business or close personal associates is subject to the provisions of part 1900, subpart D, of this title. Applications for assistance are required to identify any relationship or association with an RHS employee.

(d) Copies of all forms referenced in this subpart are available in the Agency's National Office or any Rural Development field office.

(e) An outstanding judgment obtained against an applicant by the United States in a Federal Court (other than in the United States Tax Court) shall cause the applicant to be ineligible to receive any grant or loan until the judgment is paid in full or otherwise satisfied. Agency grant funds may not be used to satisfy the judgment.

(f) Grants made under this subpart will be administered under, and are subject to parts 3015, 3016, and 3019 of this title, as appropriate, and established Agency guidelines.

(g) The income data used to determine median household income must be that which accurately reflects the income of the population to be served by the proposed facility. The median household income of the service area and the nonmetropolitan median household income for the State will be determined using income data from the most recent decennial Census of the United States.

§ 3570.52 Purpose.

The purpose of the Community Facilities grant program is to assist in the development of essential community facilities in rural areas. The Agency will authorize grant funds on a graduated basis. Eligible applicants located in small communities with low populations and low median household incomes may receive a higher percentage of grant funds. The amount of grant funds provided for a facility shall not exceed 75 percent of the cost of developing the facility.

§ 3570.53 Definitions.

Agency. The Rural Housing Service (RHS), an agency of the U.S. Department of Agriculture, or a successor agency.

Approval Official. An official who has been delegated loan or grant approval authorities within applicable programs, subject to certain dollar limitations.

Community facility (CF) (essential). The term *facility* refers to both the physical structure financed and the resulting service provided to rural resi-

dents. An essential community facility must:

(1) Serve a function customarily provided by a local unit of government;

(2) Be a public improvement needed for the orderly development of a rural community;

(3) Not include private affairs or commercial or business undertakings (except for limited authority for industrial parks);

(4) Be within the area of jurisdiction or operation for the public bodies eligible to receive assistance or a similar local rural service area of a not-for-profit corporation; and

(5) Be located in a Rural area, county, or multi-county area depending on the type of essential community facility.

Grantee. An entity with whom the Agency has entered into a grant agreement under this program.

Instructions. Agency internal procedure available in any Rural Development Office and variously referred to as Rural Development Instruction, RD Instruction, and FmHA Instruction.

Nonprofit Corporations. Any organization or entity that is eligible for RHS financial assistance in accordance with 7 CFR § 1942.17(b)(1)(B)(ii).

Processing office. The office designated by the State program official to accept and process applications for CF projects.

Project cost. The cost of completing the proposed community facility. (Facilities previously constructed will not be considered in determining project costs.) Total project costs will include only those costs eligible for CF assistance.

Poverty line. The level of income for a family of four, as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

Public body. Any State, county, city, township, incorporated town or village, borough, authority, district, economic development authority, or Native American tribe on a Federal or State reservation, or other federally recognized Indian tribe in rural areas.

RHS. The Rural Housing Service, an agency of the United States Department of Agriculture, or a successor agency.

Rural areas. The terms *rural* and *rural area* mean any city, town, or unincorporated area with a population of 25,000 inhabitants or less according to the latest decennial Census of the United States.

RUS. The Rural Utilities Service, an agency of the United States Department of Agriculture, or a successor agency.

Service area. The area reasonably expected to be served by the facility financed by the Agency.

State. The term *State* means each of the 50 States, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Republic of Palau, and the Federated States of Micronesia.

State Director. The term *State Director* means, with respect to a State, the Director of the Rural Development State Office.

Statewide nonmetropolitan median household income. The median household income of all rural areas of a State.

Strategic plan. A plan developed by each State for Rural Development initiatives and the type of assistance required. Plans shall identify goals, methods, and benchmarks for measuring success in carrying out the plan.

§3570.54 Equal opportunity and fair housing.

The Agency will administer the program in accordance with equal opportunity and fair housing legislation and applicable Executive Orders. Federal statutes provide for extending RHS financial assistance without regard to race, color, religion, sex, national origin, age, disability, and marital or familial status. The participant must possess the capacity to enter into legal contracts under State and local statutes. All activities under this subpart shall be accomplished in accordance with title VI of the Civil Rights Act of 1964, the Civil Rights Act of 1968 (Fair Housing Act), the Rehabilitation Act of 1973, and all other Federal laws and Executive Orders prohibiting discrimination in Federal programs. To file a complaint, write the Secretary of Agriculture, U.S. Department of Agri-

culture, 1400 Independence Avenue SW., Washington, DC 20250, or call 1-800-245-6340 (voice) or (202) 720-1127 (TDD).

§§ 3570.55–3570.59 [Reserved]

§3570.60 Processing preapplications, applications, and completing grant dockets.

(a) Preapplications and applications for grants will be developed in accordance with applicable portions of §§ 1942.2, 1942.104, 1942.105, and 1980.851 of this title. For combination proposals, only one preapplication package and one application package should be prepared and submitted.

(b) Financial information contained in preliminary engineering and architectural reports will be prepared without considering grant assistance.

(c) The application package will be reviewed by the processing office for eligibility, the maximum amount of grant funds allowable, and scored for selection priority.

§3570.61 Eligibility for grant assistance.

The essential community facility must primarily serve rural areas with populations of 25,000 or less, where the median household income in the areas to be served by the proposed facility is below the higher of the poverty line or 80 percent of the State nonmetropolitan median household income.

(a) *Eligible applicant.* An applicant must be:

(1) A public body, such as a municipality, county, district, authority, or other political subdivision of a State;

(2) A nonprofit corporation or an association. Applicants other than utility-type applicants must have significant ties with the local rural community. Such ties are necessary to ensure to the greatest extent possible that a facility under private control will carry out a public purpose and continue to primarily serve rural areas. Ties may be evidenced by items such as:

(i) Association with, or controlled by, a local public body or bodies, or broadly based ownership and control by members of the community; or

(ii) Substantial public funding through taxes, revenue bonds, or other

Rural Housing Service, USDA

§ 3570.63

local Government sources or substantial voluntary community funding, such as would be obtained through a community-wide funding campaign; or

(3) A federally recognized Indian tribe on a Federal or State reservation.

(b) *Eligible facilities.* Essential community facilities:

(1) Must be located in rural areas, except for utility-type services, such as telecommunications or hydroelectric, serving both rural and nonrural areas. In such cases, RHS funds may be used to finance only that portion serving rural areas, regardless of facility location.

(2) Must be necessary for orderly community development and consistent with the State's strategic plan.

(c) *Credit elsewhere.* Applicants must be unable to finance the proposed project from their own resources, through commercial credit at reasonable rates and terms, or other funding sources without grant assistance under this subpart and certify to such status in writing.

(d) *Economic feasibility.* All projects financed under the provisions of this section must be based on satisfactory sources of revenues. The amount of CF grant assistance must be the minimum amount sufficient for feasibility purposes which will provide for facility operation and maintenance, reasonable reserves, and debt repayment.

(e) *Legal authority and responsibility.* Each applicant must have, or will obtain, the legal authority necessary for construction, operation, and maintenance of the proposed facility. The applicant shall be responsible for operating, maintaining, and managing the facility and providing for its continued availability and use at reasonable rates and terms. This responsibility shall be the applicant's even though the facility may be operated, maintained, or managed by a third party under contract or management agreement.

§ 3570.62 Use of grant funds.

Grant funds up to 75 percent of the cost of developing specific essential community facilities in rural areas may be used:

(a) To supplement financial assistance authorized in accordance with part 1942, subparts A and C, and part

1980, subpart I of this title. Funding for the balance of the project shall consist of other CF financial assistance, applicant contribution, or loans and grants from other sources.

(b) To assist in developing essential community facilities in rural areas as contained in §§1942.17(d)(1), 1942.112, and 1980.813 of this title.

§ 3570.63 Limitations.

(a) Grant funds may not be used to:

(1) Pay any annual recurring costs, including purchases or rentals that are generally considered to be operating and maintenance expenses;

(2) Construct or repair electric generating plants, electric transmission lines, or gas distribution lines to provide services for commercial sale;

(3) Refinance existing indebtedness;

(4) Pay interest;

(5) Pay for facilities located in cities or towns in excess of 25,000, except as noted in §3570.61(b)(1);

(6) Pay any costs of a project when the median household income of the population to be served by the proposed facility is above the higher of the poverty line or 80 percent of the nonmetropolitan median household income of the State;

(7) Pay project costs when other loan funding for the project is not equal to, or less than, the current intermediate interest rate for CF loans (as contained in part 1810, subpart A, Exhibit B of this title, available in any Rural Development office);

(8) Pay an amount greater than 75 percent of the cost to develop the facility;

(9) Pay costs to construct facilities to be used for commercial rental where the applicant has no control over tenants and services offered;

(10) Construct facilities primarily for the purpose of housing State, Federal, or quasi-Federal agencies; and

(11) Pay for any purposes restricted by §§1942.17(d)(2), 1942.112(b), and 1980.814 of this title.

(b) Grant assistance will be provided on a graduated scale with higher grant funds going to small communities with the lowest median household income. Grant assistance is limited to the following percentages of eligible project costs:

§ 3570.64

(1) 75 percent when the proposed project is:

- (i) Located in a rural community having a population of 5,000 or less; and
- (ii) The median household income of the population to be served by the proposed facility is below the higher of the poverty line or 60 percent of the State nonmetropolitan median household income.

(2) 55 percent when the proposed project is:

- (i) Located in a rural community having a population of 15,000 or less; and
- (ii) The median household income of the population to be served by the proposed facility is below the higher of the poverty line or 70 percent of the State nonmetropolitan median household income.

(3) 35 percent when the proposed project is:

- (i) Located in a rural community having a population of 25,000 or less; and
- (ii) The median household income of the population to be served by the proposed facility is below the higher of the poverty line or 80 percent of the State nonmetropolitan median household income.

(4) Grant assistance cannot exceed the applicable percentages contained in this section and may be further limited due to the availability of grant funds or by the maximum grant assistance allowable determined in accordance with § 3570.64.

§ 3570.64 Determining the maximum grant assistance.

(a) *Responsibility.* State Directors are responsible for determining the applicant's eligibility for grant assistance. A "Worksheet for Computing Maximum Grant Assistance" (available in any Rural Development office) will be used to record the maximum allowable grant for each Community Facilities project.

(b) *Maximum grant assistance.* Grant assistance cannot exceed the lower of:

- (1) Qualifying percentage of eligible project cost determined in accordance with § 3570.63(b);
- (2) Minimum amount sufficient to provide for economic feasibility as de-

7 CFR Ch. XXXV (1-1-99 Edition)

termined in accordance with § 3570.61(d); or

(3) Either 50 percent of the annual State allocation or \$50,000, whichever is greater, unless an exception is made by the RHS Administrator in accordance with § 3570.90.

§ 3570.65 Project selection priorities.

Applications are scored on a priority basis. Points will be distributed as follows:

(a) *Population priorities.* The proposed project is located in a rural community having a population of:

- (1) 5,000 or less—30 points;
- (2) Between 5,001 and 15,000—20 points; or
- (3) Between 15,001 and 25,000—10 points.

(b) *Income priorities.* The median household income of the population to be served by the proposed project is:

- (1) Below the higher of the poverty line or 60 percent of the State nonmetropolitan median household income—30 points;
- (2) Below the higher of the poverty line or 70 percent of the State nonmetropolitan median household income—20 points; or
- (3) Below the higher of the poverty line or 80 percent of the State nonmetropolitan median household income—10 points.

(c) *Other priorities.* Points will be assigned for one or more of the following initiatives:

- (1) Project is identified in the State strategic plan—10 points;
- (2) Project is for health care—10 points;
- (3) Project is for public safety—10 points.

(d) *Discretionary.* (1) The State Director may assign up to 15 points to a project, in addition to those that may be scored under paragraphs (a) through (c), of this section. These points are to address unforeseen exigencies or emergencies, such as the loss of a community facility due to an accident or natural disaster or the loss of joint financing if Agency funds are not committed in a timely fashion. In addition, the points will award projects benefitting from the leveraging of funds in order to improve compatibility and coordination between the Agency and other

Rural Housing Service, USDA

§ 3570.80

agencies' selection systems and for those projects that are the most cost effective.

(2) In selecting projects for funding at the National Office level, additional points will be awarded based on the priority assigned to the project by the State Office. These points will be awarded in the manner shown below. Only the three highest priority projects for a State will be awarded points. The Administrator may assign up to 30 additional points to account for geographic distribution of funds, emergency conditions caused by economic problems or natural disasters, and leveraging of funds.

Priority	Points
1	5
2	3
3	1

§§ 3570.66–3570.69 [Reserved]

§ 3570.70 Other considerations.

Each application must contain the comments, necessary certifications, and recommendations of appropriate regulatory or other agency or institution having expertise in the planning, operation, and management of similar facilities as required by part 1942, subparts A and C, and part 1980, subpart I, of this title. Proposals for facilities financed in whole or in part with Agency funds must be coordinated with appropriate Federal, State, and local agencies as required by the following:

- (a) Intergovernmental review.
- (b) Civil rights compliance requirements.
- (c) Environmental requirements.
- (d) Governmentwide debarment and suspension.
- (e) Restrictions on lobbying.
- (f) Excess capacity or transfer of employment.
- (g) National Historic Preservation Act of 1966.
- (h) Uniform Relocation Assistance and Real Property Acquisition.
- (i) Floodplains and wetlands.
- (j) Flood or mudslide hazard area precautions.
- (k) Civil Rights Impact Analysis.

§§ 3570.71–3570.75 [Reserved]

§ 3570.76 Planning and performing development.

Planning and performing development will be handled in accordance with §§ 1942.9, 1942.18, and 1942.126 of this title.

§§ 3570.77–3570.79 [Reserved]

§ 3570.80 Grant closing and delivery of funds.

(a) The Agency's policy is that grant funds will not be disbursed from the Treasury until they are actually needed by the applicant and all borrower funds and other CF financial assistance are expended.

(1) Agency or other loan funds will be disbursed before the disbursal of any Agency grant funds except when:

- (i) Interim financing of the total estimated amount of loan funds needed during construction is arranged;
- (ii) All interim funds have been disbursed; and
- (iii) Agency grant funds are needed before any other loan can be closed.

(2) If grant funds are available from other agencies and are transferred for disbursement by RHS, these grant funds will be disbursed in accordance with the agreement governing such other agencies' participation in the project.

(3) Any grant funds remaining will be handled in accordance with § 1942.17(p)(6) of this title.

(b) If the grant is made in connection with other CF financial assistance, grant closing must occur simultaneously with loan closing.

(c) Agency grant funds will be disbursed in accordance with §§ 1942.17(p)(2) and 1942.123 of this title.

(d) Payment for construction will be made in accordance with §§ 1942.17(p)(5) and 1942.127 of this title.

(e) An "Agreement for Administrative Requirements for Community Facilities Grants" will be signed by the grantee. For grants that supplement Agency loan funds, the grant should be closed simultaneously with the closing of the loan. However, when grant funds will be disbursed before loan closing, as provided in paragraph (a)(1) of this section, the grant will be closed not later

than the delivery date of the first advance of grant funds.

§§ 3570.81–3570.82 [Reserved]

§ 3570.83 Audit requirements.

Audits will be conducted in accordance with §1942.17(q)(4) of this title. The audit requirements apply only to the years in which grant funds are received. Audits must be prepared in accordance with Generally Accepted Government Auditing Standards (GAGAS) using the publication, “Standards for Audit of Governmental Organizations, Programs, Activities, and Functions.”

§ 3570.84 Grant servicing.

Grants will be serviced in accordance with part 1951, subparts E and O of this title.

§ 3570.85 Programmatic changes.

The grantee shall obtain prior approval for any change to the objectives of the project. (For construction projects, a material change in approved space utilization or functional layout shall be considered such a change.) Failure to obtain prior approval of changes to the approved project or budget can result in suspension, refund, or termination of grant funds.

§ 3570.86 [Reserved]

§ 3570.87 Grant suspension, termination, and cancellation.

Grants may be suspended or terminated for cause or convenience in accordance with parts 3015, 3016, or 3019 of this title, as applicable.

§ 3570.88 Management assistance.

Grant recipients will be supervised, to the extent necessary, to ensure that facilities are constructed in accordance with approved plans and specifications and to ensure that funds are expended for approved purposes.

§ 3570.89 [Reserved]

§ 3570.90 Exception authority.

The Administrator may, in individual cases, make an exception to any non-statutory requirement or provision of this subpart if the Administrator determines that application of the re-

quirement or provision would adversely affect the Government’s financial interest and shows how the adverse impact will be eliminated or minimized if the exception is made. Requests for exceptions must be made in writing by the approval official.

§ 3570.91 Regulations.

Grants under this part will be in accordance with parts 3015, 3016, or 3019, as applicable, of this title and any conflicts between those parts and this part will be resolved in favor of the applicable parts 3015, 3016, or 3019, as applicable.

§ 3570.92 [Reserved]

§ 3570.93 Regional Commission grants.

(a) Grants are sometimes made by Federal Regional Commissions for projects eligible for RHS assistance. RHS has agreed to administer such funds in a manner similar to administering RHS assistance.

(b) The transfer of funds from a Regional Commission to RHS will be based on specific applications determined to be eligible for an authorized purpose in accordance with the requirements of RHS and the Regional Commission.

(c) The Appalachian Regional Commission (ARC) is authorized under the Appalachian Regional Development Act of 1965, as amended, to serve the Appalachian region. ARC grants are handled in accordance with the ARC Agreement (RUS Bulletin 1780–25) which applies to all ARC grants administered by RHS. Therefore, a separate Project Management Agreement between RHS and ARC is not needed for each ARC grant.

(d) Other Federal Regional Commissions are those authorized under Title V of the Public Works and Economic Development Act of 1965. Grants by these commissions are handled in accordance with a separate Project Management Agreement between the respective Regional Commission and RHS for each Commission grant administered by RHS (guide 1 of part 1942, subpart G). The agreement should be prepared by the RHS State Director and the appropriate Commission official when the State Director receives a

Rural Housing Service, USDA

§ 3570.100

notice from the Commission of the amount of the grant to be made.

(e) When the Agency has funds in the project, no charge will be made for administering grant funds.

(f) When RHS has no loan or grant funds in the project, an administrative charge will be made pursuant to the Economy Act of 1932, as amended (31 U.S.C. 1535). A fee of 5 percent of the first \$50,000 and 1 percent of any amount over \$50,000 will be paid RHS by the commission.

§§ 3570.94–3570.99 [Reserved]

§ 3570.100 OMB control number.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575–0173.